

**SUPREME COURT MINUTES
WEDNESDAY, MARCH 24, 2004
SAN FRANCISCO, CALIFORNIA**

S121676

B162961 Second Appellate District,
Division Five

STERLING v. TAYLOR
Petition for review granted

Votes: George, C.J., Baxter, Werdegarr, Chin,
and Brown, JJ.

S121723

F040188 Fifth Appellate District
F040529

JOHNSON v. FORD MOTOR COMPANY
Petition for review granted

Votes: George, C.J., Kennard, Werdegarr, Chin,
Brown, and Moreno, JJ.

S121933

B121917 Second Appellate District,
Division Four

SIMON, dba LIBERTY PAPER CO. v. SAN PAOLO
U.S. HOLDING COMPANY, INC.
Petition for review granted

Votes: George, C.J., Kennard, Baxter,
Werdegarr, Chin, Brown, and Moreno, JJ.

S122240

B154557 Second Appellate District,
Division Eight

PEOPLE v. GONZALEZ
Petition for review granted

Votes: George, C.J., Kennard, Baxter,
Werdegarr, Chin, Brown, and Moreno, JJ.

S122031

C041257 Third Appellate District

PEOPLE v. ALEXANDER
Review granted/briefing deferred (rule 29.1)

Further action in this matter is deferred pending consideration and disposition of a related issue in *Warrick v. Superior Court*, S115738 (see Cal. Rules of Court, rule 28.2 (c)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.1, is deferred pending further order of the court.

Votes: George, C.J., Kennard, Baxter,
Werdegarr, Chin, Brown, and Moreno, JJ.

S119453

LIBERTS (MARC) ON H.C.

OSC issued, returnable in Superior Court

The Director of Corrections is ordered to show cause returnable before the Ventura County Superior Court why petitioner is not entitled to be resentenced on Count 7 to a determinate term in accordance with *In re Chavez* (2004) 114 Cal.App.4th 989, and why he is not entitled to immediate release. (See the Attorney General's concession, Informal Response in S119453, filed March 11, 2004; see also *People v. Burbine* (2003) 106 Cal.App.4th 1250, 1253; *In re Ballard* (1981) 115 Cal.App.3d 647, 650.) The return shall be filed on or before March 30, 2004. The superior court is to place the matter on calendar as soon as possible.

Votes: George, C.J., Kennard, Baxter, Werdegarr, Chin, Brown, and Moreno, JJ.

S121400

H024214 Sixth Appellate District

VARIAN MEDICAL SYSTEMS v. DELFINO

Stay order filed

To permit further consideration of the issues raised by the petition for writ of supersedeas, all proceedings to enforce the trial court judgment in the above matter, including the contempt proceeding currently scheduled for March 29, 2004, are stayed until further order of this court.

Respondents must serve and file any opposition to the petition for writ of supersedeas within seven (7) days from the date of this order. If respondents file an opposition, then petitioners may reply to the opposition within seven (7) days after the opposition is filed in this court.

S121650D040271 Fourth Appellate District,
Division One

ROSALES v. BATTLE

Petition for review denied

Kennard, J., and Chin, J., were recused and did not participate.

S121702

B154584 Second Appellate District,
Division Eight

MURPHY v. SEIDMAN

Petitions for review denied

Baxter, J., and Chin, J., are of the opinion the
petition should be granted.

S121716

D042190 Fourth Appellate District,
D035406 Division One

JACOBS (HARVEY BARRY) ON H.C.

Petition for review denied

S121717

D040361 Fourth Appellate District,
Division One

ABH INVESTMENTS v. NARVEN ENTERPRISES

Petition for review denied

S121742

A098625 First Appellate District,
Division Three

D. (DELORES), CONSERVATORSHIP OF

Petition for review denied

S121813

A098167 First Appellate District,
Division Five

PEOPLE v. SPURLOCK

Petition for review denied

Kennard, J., is of the opinion the petition should
be granted.

S121827

G030868 Fourth Appellate District,
Division Three

ABRAHAM v. WCAB. (CITY OF BUENA PARK)

Petition for review denied

S121882

B158569 Second Appellate District,
Division Two

NINETY NINE INVESTMENTS v. OVERSEAS

COURIER SERVICE (SINGAPORE)

Petition for review denied

S121887

B161491 Second Appellate District,
Division Five

CONSUMER ADVOCATES v. ECHOSTAR

SATELLITE CORPORATION

Petition for review denied

S121972

C042523 Third Appellate District

BLACK DIAMOND ASPHALT v. S.C. (ADAMES)

Petition for review & depublication requests denied

S122026

A098183 First Appellate District,
Division Three

PEOPLE v. WATSON

Petition for review denied; CA opinion decertified

The Reporter of Decisions is directed not to publish in the Official Appellate Reports the opinion in the above entitled appeal filed December 10, 2003, which appears at 114 Cal.App.4th 142. (Cal.Const., art. VI, § 14; rule 976, Cal. Rules of Court.)

S122043

H026308 Sixth Appellate District
H025101

CARUTHERS ON H.C.

Petition for review denied

S122078

D039474 Fourth Appellate District,
Division One

PEOPLE v. FUTRELL

Petition for review denied; CA opinion decertified

The Reporter of Decisions is directed not to publish in the Official Appellate Reports the opinion in the above entitled appeal filed December 9, 2003, which appears at 114 Cal.App.4th 30. (Cal. const., art. VI, section 14; rule 976, Cal. Rules of Court.)

Kennard, J., is of the opinion the petition should be granted.

S122203

H024123 Sixth Appellate District

PEOPLE v. VIJAY

Petition for review denied

S122226

C042443 Third Appellate District

PEOPLE v. RICHARDS

Petition for review denied

S122237

B157527 Second Appellate District,
Division Seven

HERNANDEZ v. DEPARTMENT OF
TRANSPORTATION

Petition for review & depublication request denied

S122261

B158442 Second Appellate District,
Division Six

PEOPLE v. HILL

Petition for review denied

S122269

B158321 Second Appellate District,
Division Seven

PEOPLE v. BRISCO

Petitions for review denied

S122271

H023768 Sixth Appellate District

PEOPLE v. PETZNICK

Petition for review denied

S122312

H022292 Sixth Appellate District

PEOPLE v. ATCHERLEY

Petition for review denied

S122334

G031514 Fourth Appellate District,
Division Three

PEOPLE v. CARBAJAL

Petition for review denied

S122371

B163212 Second Appellate District,
Division One

PEOPLE v. MCGAUGHY

Petitions for review denied

S122372

B167449 Second Appellate District,
Division Eight

EDAMERICA INC. v. S.C. (JUNG)

Petition for review denied

Kennard, J., is of the opinion the petition should
be granted.

S122374

G031275 Fourth Appellate District,
Division Three

QUINTERO v. CITY OF SANTA ANA

Petition for review & depublication request denied

S122396

F041380 Fifth Appellate District

PEOPLE v. GLASS

Petition for review denied

S122412

B165794 Second Appellate District,
Division One

PEOPLE v. PARKER

Petition for review denied

S122457

A100098 First Appellate District,
Division Five

PEOPLE v. COMPTON

Petition for review denied

S122458

B171354 Second Appellate District,
Division Two

JACKSON (BERNARD) ON H.C.
Petition for review denied

Brown, J., was recused and did not participate.

S122459

C040633 Third Appellate District

PEOPLE v. ALVAREZ
Petition for review denied

S122468

A100418 First Appellate District,
Division One

PEOPLE v. ALLEN
Petition for review denied

S122474

A105009 First Appellate District,
Division Three

JACKSON (JULIUS LEE) ON H.C.
Petition for review denied

S122501

B162827 Second Appellate District,
Division Four

PEOPLE v. SMALL
Petition for review denied

S122509

B167189 Second Appellate District,
Division Five

PEOPLE v. HAMILTON
Petition for review denied

S122541

D041113 Fourth Appellate District,
Division One

PEOPLE v. MEDINA
Petition for review & depublication request denied

S122542

C043804 Third Appellate District

STOCKTON CHRISTIAN LIFE CENTER v.
MCCARTHY
Petition for review & publication requests denied

S122556

A105321 First Appellate District,
Division One

HARRIS (ARTHUR) ON H.C.
Petition for review denied

S122557

B164488 Second Appellate District,
Division Four

PEOPLE v. MAINWARING
Petition for review denied

S122560

B166156 Second Appellate District,
Division Six

PEOPLE v. FREEMAN

Petition for review denied

S122567

A099046 First Appellate District,
Division Five

PEOPLE v. SCHRODT

Petition for review denied

S122584

D040957 Fourth Appellate District,
Division One

DENARDI EQUIPMENT COMPANY INC. v.
CONSTRUCTION NOTICE SVCS. INC.

Petition for review denied

S122587

B164562 Second Appellate District,
Division Five

PEOPLE v. ARELLANO

Petition for review denied

S122588

B162110 Second Appellate District,
Division Four

GAYLOR v. HOBDY

Petition for review denied

S122592

C045943 Third Appellate District

SPRINGS (DANIEL) ON H.C.

Petition for review denied

S122600

A099623 First Appellate District,
Division One

PEOPLE v. WHITLEY

Petition for review denied

S122603

E035183 Fourth Appellate District,
Division Two

RASHIDIAN (HASSAN) ON H.C.

Petition for review denied

S122604

C041855 Third Appellate District

PEOPLE v. TISON

Petition for review denied

S122621

F041223 Fifth Appellate District

PEOPLE v. BADAY

Petition for review denied

S122626

E032334 Fourth Appellate District,
Division Two

GOZUKARA v. FORD MOTOR COMPANY

Petition for review denied

S122630

B159276 Second Appellate District,
Division Four

PEOPLE v. BRADFORD

Petition for review denied

Kennard, J., is of the opinion the petition should
be granted.

S122641

G031471 Fourth Appellate District,
Division Three

PATTERSON (RAMON) ON H.C.

Petition for review denied

S122650

A102606 First Appellate District,
Division Four

WHITE v. CITY OF VALLEJO

Petition for review denied

S122655

B161647 Second Appellate District,
Division Three

PEOPLE v. PEDROZA

Petitions for review denied

S122656

B161912 Second Appellate District,
Division Two

BLANCHARD v. KOVACS

Petition for review denied

S122657

B163744 Second Appellate District,
Division Seven

SANCHEZ v. CITY OF LOS ANGELES

Petition for review denied

Werdegar, J., was recused and did not
participate.

S122668

F041882 Fifth Appellate District

PEOPLE v. HAWKINS

Petition for review denied

Baxter, J., was recused and did not participate.

S122670

B161452 Second Appellate District,
Division Two

PEOPLE v. RODRIGUEZ

Petition for review denied

S122675

D041311 Fourth Appellate District,
Division One

PEOPLE v. SCHMIDT

Petition for review denied

S122676

B164250 Second Appellate District,
Division Three

PEOPLE v. FUA

Petition for review denied

S122681

E033057 Fourth Appellate District,
Division Two

PEOPLE v. SPENCER

Petition for review denied

S122686

E032384 Fourth Appellate District,
Division Two

PEOPLE v. VIZCARRA

Petition for review denied

S122689

H025793 Sixth Appellate District

PEOPLE v. THOMAS

Petition for review denied

S122699

H025986 Sixth Appellate District

PEOPLE v. TANTARUNA

Petition for review denied

S122701

B164058 Second Appellate District,
Division Four

PEOPLE v. HOLLEY

Petition for review denied

S122707

B161684 Second Appellate District,
Division Four

RICKLEY v. LOS ANGELES

Petition for review & depublication requests denied

S122714

B158894 Second Appellate District,
B160783 Division Seven

WEINBERG v. SAFECO INSURANCE

Petition for review denied

S122720

H025653 Sixth Appellate District

PEOPLE v. PALMER

Petition for review denied

S122721

D041493 Fourth Appellate District,
Division One

PEOPLE v. GARCIA

Petition for review denied

Kennard, J., is of the opinion the petition should
be granted.

Chin, J., is of the opinion the petition should be
granted.

S122722

B162083 Second Appellate District,
Division Three

PEOPLE v. JACKSON

Petition for review denied

S122723

F041132 Fifth Appellate District

PEOPLE v. CERVANTES

Petition for review denied

S122724

A100222 First Appellate District,
A100453 Division One

G. (LUIS), IN RE

Petition for review denied

S122725

F042235 Fifth Appellate District

PEOPLE v. GUZMAN

Petition for review denied

S122730

F040994 Fifth Appellate District

PEOPLE v. NUNEZ

Petition for review denied

S122739

B172018 Second Appellate District,
Division Five

LOS ANGELES v. W.C.A.B. (PEREZ)

Petition for review denied

S122742

F042928 Fifth Appellate District

A. (ANGEL), IN RE

Petition for review & publication request denied

S122747

C041139 Third Appellate District

PEOPLE v. SESSOMS

Petition for review denied

S122749

F042027 Fifth Appellate District

C. (RICHARD), IN RE

Petition for review denied

S122750

F042930 Fifth Appellate District

V. (PETER), IN RE

Petition for review denied

S122754H026068 Sixth Appellate District
H026436

PEOPLE v. HENSON

Petition for review denied

S122759

C043192 Third Appellate District

C. (B.), IN RE

Petition for review denied

S122761B172374 Second Appellate District,
B172374 Division Six

KNIGHT v. S.C. (SANTA MARIA, CITY OF)

Petition for review denied

S122762B166960 Second Appellate District,
Division Seven

PEOPLE v. TROUNG

Petition for review denied

S122764

C041888 Third Appellate District

PEOPLE v. CONCEPCION

Petition for review denied

S122766B164517 Second Appellate District,
Division Eight

PEOPLE v. HERNANDEZ

Petition for review denied

S122767B166837 Second Appellate District,
Division Seven

PEOPLE v. PHILLIPS

Petition for review denied

S122813

F043618 Fifth Appellate District

B. (ADAM), IN RE

Petition for review & publication request denied

S122836

C045317 Third Appellate District

SEABROOKS v. WCAB (BROWNING FERRIS)

Petition for review denied

S123120

H027096 Sixth Appellate District

BREITENSTEIN v. S.C. (PETTIGREW)

Petition for review and application for stay denied

S123181BELL v. CA 2/5 (PEOPLE)
Petition for writ of mandate/prohibition denied**S123454**A105738 First Appellate District,
Division OneJACOBSON v. S.C. (PEOPLE)
Petition for review and application for stay denied**S110639**RUSH (ROBERT) ON H.C.
Petition for writ of habeas corpus denied**S114486**WARTH (BRIAN) ON H.C.
Petition for writ of habeas corpus denied

Brown, J., was recused and did not participate.

S115847RUST (FRANK) ON H.C.
Petition for writ of habeas corpus denied(See *In re Waltreus* (1965) 62 Cal.2d 218; *In re Dixon* (1953) 41 Cal.2d 756.)**S116201**KOUYIYOTH (CHANH) ON H.C.
Petition for writ of habeas corpus denied**S116312**G031894 Fourth Appellate District,
Division ThreePROTOPAPPAS (TONY) ON H.C.
Petition for writ of habeas corpus denied**S116373**JOHNSON (GARRISON S.) ON H.C.
Petition for writ of habeas corpus denied(See *In re Clark* (1993) 5 Cal.4th 750; *In re Swain* (1949) 34 Cal.2d 300, 304; *People v. Duvall* (1995) 9 Cal.4th 464, 474.)**S116390**LYNCH (MICHAEL S.) ON H.C.
Petition for writ of habeas corpus denied(See *In re Swain* (1949) 34 Cal.2d 300, 304; *People v. Duvall* (1995) 9 Cal.4th 464, 474; *In re Dixon* (1953) 41 Cal.2d 756.)

S116399CUMMINGS (DARCY LLOYD) ON H.C.
Petition for writ of habeas corpus denied**S116462**SUTTON (MARK A.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Robbins* (1998) 18 Cal.4th 770, 780;
In re Clark (1993) 5 Cal.4th 750; *In re Waltreus*
(1965) 62 Cal.2d 218; *In re Dixon* (1953) 41
Cal.2d 756; *In re Swain* (1949) 34 Cal.2d 300,
304; *In re Lindley* (1947) 29 Cal.2d 709.)

S116686PENN (CURTIS EUGENE) ON H.C.
Petition for writ of habeas corpus denied**S117509**CHARAN (RAJESH) ON H.C.
Petition for writ of habeas corpus denied**S117511**MCADOO (GREGORY) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Swain* (1949) 34 Cal.2d 300, 304.)

S117522SHOEMAKER (CLAUDE) ON H.C.
Petition for writ of habeas corpus denied**S117529**MARKS (MICHAEL) ON H.C.
Petition for writ of habeas corpus denied**S117557**GEORGE (MARVIN J.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Swain* (1949) 34 Cal.2d 300, 304; *In*
re Waltreus (1965) 62 Cal.2d 218.)

S117558GARRETT (GERALD D.) ON H.C.
Petition for writ of habeas corpus denied

S117559

ROBLEDO (CARLOS) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Swain* (1949) 34 Cal.2d 300, 304;
People v. Duvall (1995) 9 Cal.4th 464, 474.)

S117560

CARILLO (FRANKLIN R.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Robbins* (1998) 18 Cal.4th 770, 780;
In re Clark (1993) 5 Cal.4th 750; *In re Swain*
(1949) 34 Cal.2d 300, 304; *People v. Duvall*
(1995) 9 Cal.4th 464, 474.)

S117635

HERRERA (MARIO) ON H.C.
Petition for writ of habeas corpus denied

S118554

WOLFE (MARION C.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Swain* (1949) 34 Cal.2d 300, 304; *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Clark* (1993) 5 Cal.4th 750.)

S119825

WOLFE (MARION C.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Swain* (1949) 34 Cal.2d 300, 304; *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780.)

S120171

PROTOPAPPAS (TONY) ON H.C.
Petition for writ of habeas corpus denied

S121582

PROTOPAPPAS (TONY) ON H.C.
Petition for writ of habeas corpus denied

S123226

ROLLINS (DENNIS) ON H.C.
Petition for writ of habeas corpus denied

S123244

ROLLINS (DENNIS) ON H.C.
Petition for writ of habeas corpus denied

S123275
C000000
C000000

WOLFE (MARION C. JR.) ON H.C.
Petition for writ of habeas corpus and

Request for stay is denied. (See *In re Swain* (1949) 34 Cal.2d 300, 304; *People v. Duvall* (1995) 9 Cal.4th 464, 474; *In re Dexter* (1979) 25 Cal.3d 921.)

S123314

GRAHAM (JAMES WYDELL) ON H.C.
Petition for writ of habeas corpus denied

S122544

D042323 Fourth Appellate District,
Division One

2022 RANCH v. S.C. (CHICAGO TITLE INS.)
Depublication requests denied (case closed)

S122741

H024841 Sixth Appellate District

SANTA TERESA CITIZEN ACTION GROUP v. CITY
OF SAN JOSE (SANTA CLARA VAL. WATER DIST)
Depublication request denied (case closed)

S122984

B162313 Second Appellate District,
Division Eight

DOZIER v. BRIDGESTONE/FIRESTONE
Publication request denied (case closed)

Chin, J., was recused and did not participate.

S122344

B145606 Second Appellate District,
B150988 Division Three

PEOPLE v. ANDERSON
Time extended to grant or deny review
to April 29, 2004.

S122464

A097873 First Appellate District,
A103588 Division Three

PEOPLE v. RENDEROS
Time extended to grant or deny review
to May 6, 2004.

S122564B160823 Second Appellate District,
Division OneCITI-WIDE PREFERRED COURIERS, INC. v.
GOLDEN EAGLE INS. CORP.

Time extended to grant or deny review

to May 7, 2004.

S053228

PEOPLE v. ALEXANDER (ANDRE STEPHEN)

Withdrawal of counsel allowed by order

Good cause appearing, the application of appointed counsel for permission to withdraw as attorney of record for appellant Andre Stephen Alexander, filed March 12, 2004, is granted.

The order appointing Thomas Kallay as appellate counsel of record for appellant Andre Stephen Alexander, filed April 26, 2000, is hereby vacated.

On the court's own motion, the State Public Defender is hereby appointed as counsel of record to represent appellant Andre Stephen Alexander for the direct appeal in the above automatic appeal now pending in this court.

Kallay is directed to deliver to the State Public Defender, within 30 days from the filing of this order, his copy of the record on appeal in *People v. Alexander*, and all appellate and habeas corpus work product and filings on behalf of appellant Andre Stephen Alexander. Kallay also is directed to deliver to the State Public Defender, within 30 days from the filing of this order, all case files, reports and related materials that he has obtained from trial counsel, paralegals, experts and investigators, or from any other source.

On the court's own motion, the time for filing the appellant's reply brief is extended to and including September 20, 2004.

MISC. ORDER 2004-1**STATE BAR JUDGES: APPOINTMENT OF
APPLICANT EVALUATION AND NOMINATION
COMMITTEE**

Pursuant to rule 961(a)(1), California Rules of Court, the following appointments are made to the Supreme Court's Applicant Evaluation and Nomination Committee, effective March 24, 2004, for the purpose of submitting nominations for the position of judge of the State Bar Court:

1. James O. Heiting, a member of the Board of Governors, is appointed for a term of 2 years.
2. Paul Hokokian, a member of the Board of Governors, is appointed for a term of 2 years.
3. Barbara Ravitz, Esq., is reappointed for a term of 4 years.

Bar Misc. 4186**IN THE MATTER OF THE APPLICATION OF THE
COMMITTEE OF BAR EXAMINERS OF THE
STATE BAR OF CALIFORNIA FOR ADMISSION
OF ATTORNEYS**

The written motion of the Committee of Bar Examiners filed on March 16, 2004, which included the names of applicants who have fulfilled the requirements for admission to the practice of law in the State of California, is amended by striking the name of **Stephen Robert Rue**.

B168705 Second Appellate District**GIL MILEIKOWSKY, M.D. v. TENET
HEALTH SYSTEMS**

The above-entitled matter, now pending in the Court of Appeal, Second Appellate District, is transferred from Division Two to Division Four.

